



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,151	07/12/2001	John C. Evans	GME / 137	2466

26875 7590 08/22/2003

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

BECKER, DREW E

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 08/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,151

Applicant(s)

EVANS ET AL.

Examiner

Drew E Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Request for Continued Examination

1. The request filed on July 21, 2003 for an RCE based on parent Application No. 09/904,151 is acceptable and an RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-8, 10-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schey [Pat. No. 1,480,119] in view of Eason [Pat. No. 3,854,392]. Schey teaches a roasting device and method comprising a housing with sidewalls (page 2, lines 73-86), four vertically spaced, staggered, partially overlying, parallel, rotating spits which are fixed relative to the housing (Figure 1, #1-4), heaters and controls (Figure 1, #1a-4a), independent drive means (Figure 1, #74-76), and rotating the spits while applying heat (page 1, lines 8-14). Schey does not teach tiers of horizontal rollers. Eason teaches a cooking device comprising a tier of horizontal, rotatable rollers attached to a spit (Figure 1, #13 & 16). It would have been obvious to one of ordinary skill in the art to incorporate the roller tiers of Eason into the invention of Troiel since both are directed to grilling devices, since Schey already included rotatable spits (Figure

Art Unit: 1761

1, #1-4), and since Eason teaches that the roller tier was intended to convert typical spit-type rotisseries into devices for efficiently cooking wieners and sausages (abstract).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schey, in view of Eason, as applied above, and further in view of Hunot et al [Pat. No. 6,393,971].

Schey and Eason teach the above mentioned components. Schey and Eason do not teach an inclined roller tier. Hunot et al teach a cooking device comprising an inclined roller tier (Figure 10, #26). It would have been obvious to one of ordinary skill in the art to incorporate the inclined roller tier of Hunot et al into the invention of Schey, in view of Eason, since all are directed to grilling devices, since Eason already included roller tiers (Figure 1, #13), and since the inclined roller tier of Hunot et al facilitated easier loading and unloading of hotdogs as well as a good view of the cooking process (column 4, line 64).

5. Claims 9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schey, in view of Eason, as applied above, and further in view of Troiel [Pat. No. 1,630,644].

Schey and Eason teach the above mentioned components and concepts. Schey and Eason do not teach independently controlled heaters. Troiel teaches a rotisserie device comprising independently controlled heaters (Figure 1, #8-9). It would have been obvious to one of ordinary skill in the art to incorporate the gas cocks of Troiel into the invention of Schey, in view of Eason, since all are directed to rotisserie devices, since Schey already included multiple gas burners (Figure 1, #1a-4a), and since the gas

Art Unit: 1761

cocks of Troiel would have permitted differing cooking conditions for each spit and thus increased cooking flexibility.

Response to Arguments

6. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.



Drew E Becker
Examiner
Art Unit 1761

August 20, 2003